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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,925	11/23/2005	Karrie Hontz	A35349-PCT-USA (065855.03)	2968
21003	7590	10/24/2007	EXAMINER	
BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112-4498			LAFORGIA, CHRISTIAN A	
			ART UNIT	PAPER NUMBER
			2131	
			NOTIFICATION DATE	DELIVERY MODE
			10/24/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DLNYDOCKET@BAKERBOTTSCOM

Office Action Summary

Application No. .

10/524,925

Applicant(s)

HONTZ ET AL.

Examiner

Christian La Forgia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/17/05; 5/17/07.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

1. Claims 1-21 have been presented for examination.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority.

Information Disclosure Statement

3. The information disclosure statements (IDS) submitted on 17 February 2005 and 17 May 2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statements.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0184072 A1 to Linde et al., hereinafter Linde.
6. As per claim 1, Linde teaches a data analysis system for evaluating the performance of a first at least one of a plurality of outlets, comprising:

a computer system including a transceiver and configured to execute a data access application (Figure 2 [element 6], paragraphs 0053-0055, i.e. central computer controls access to information in the database), wherein the data access application includes a plurality of user accounts (Figure 2 [elements 8], paragraph 0054, i.e. each element 8 represents a client or user who is given authority to access the information), wherein each of the plurality of user accounts

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includes a user group (paragraph 0055, i.e. the user group being either the company the user belongs to or the groups of products that they are following), and wherein a second at least one of the plurality of outlets is associated with the user group (paragraphs 0032, 0033, 0055, i.e. market performance of certain articles, goods, services or products); and

a data storage device coupled to the computer system (Figure 2 [element 7], paragraphs 0054-0055) and configured to store market measures from a portion of the plurality of outlets and industry-standard market measures (paragraphs 0022, 0055, i.e. storing market performance information regarding a user's own products as well as their competitor's products), wherein the data access application allows a user to access the industry-standard market measures and data associated with the outlets associated with the user group of user's user account (paragraphs 0022, 0053-0055, i.e. storing market performance information regarding a user's own products as well as their competitor's products).

7. Regarding claims 2 and 14, Linde teaches wherein at least one of the plurality of outlets is a retail sales location (paragraphs 0032, 0033).

8. Regarding claims 3 and 15, Linde teaches wherein at least one of the plurality of outlets is a pharmaceutical sales location (paragraphs 0011, 0032, 0033, 0036, 0037, 0050, i.e. drug companies, drug sales, etc.).

9. Regarding claims 4 and 16, Linde teaches wherein the computer system receives market measures from the portion of the plurality of outlets through the transceiver (paragraph 0056, i.e. monitoring prescriptions and purchase patterns).

10. With regarding to claim 5, Linde teaches wherein the computer system receives the market measures from users utilizing the data access application (paragraphs 0039, 0056, i.e. polling physicians).

11. With regarding to claims 6 and 17, Linde teaches wherein the computer system generates industry-standard market measures based at least in part on the market measures from the portion of the plurality of outlets (paragraph 0022, i.e. gathering and collating comprehensive qualitative and quantitative data summarizing market data such as benchmarking against competitors).

12. Regarding claim 10, Linde teaches wherein the first at least one of the plurality of outlets is the same as the second at least one of the plurality of outlets (paragraphs 0033, 0050, i.e. tracking incremental sales of a product, measuring market performance).

13. As per claim 11, Linde teaches a method for evaluating the performance of at least one of a plurality of outlets, comprising the steps of:

(a) receiving a username and password from a user (paragraph 0054),

(b) verifying that the username and password correspond to a user account, wherein the user account includes a reference to a user group (paragraphs 0054, 0055, i.e. if the user identification code and password are appropriate, the user group being either the company the user belongs to or the groups of products that they are following);

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- (c) receiving a request for a report comparing data associated with at least one outlet associated with the user group to industry-standard market measures (paragraph 0055, i.e. acquiring information about market performance to compare against competitors); and
- (d) transmitting the report to the user (paragraphs 0055, 0080).

14. Regarding claim 12, Linde teaches receiving market measures corresponding to one of the at least one outlet associated with the user group (paragraphs 0022, 0055, i.e. market performance).

15. With regards to claim 13, Linde teaches wherein the market measures include all pertinent transactions from the one of the at least one outlet (paragraphs 0022, 0056, i.e. monitoring drug prescription and purchase patterns).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 7-9 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linde.

18. Regarding claims 7, 18, and 19, Linde does not teach an additional data storage unit coupled to the computer system and including a plurality of data records, wherein each of the data records includes an outlet name, an organization name, and a parent name.

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19. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an additional storage unit, comprising user information containing an outlet name, an organization name, and a parent name, since one of ordinary skill in the art would realize that maintaining information regarding the users outlets, organization, and parent would prevent the user from accessing unauthorized information (paragraph 0054 of Linde requires a username and password, a technique known to prevent access to unauthorized data) and help in formulating market research comparing their company to their competitors (paragraph 0022 of Linde).

20. With regards to claims 8 and 20, Linde does not teach wherein the user group is associated with at least one of the plurality of outlets associated with a particular parent name.

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made for a user group to be associated with a parent name, since one of ordinary skill in the art would realize that maintaining information regarding the users outlets, organization, and parent would prevent the user from accessing unauthorized information (paragraph 0054 of Linde requires a username and password, a technique known to prevent access to unauthorized data) and help in formulating market research comparing their company to their competitors (paragraph 0022 of Linde).

22. With regards to claims 9 and 21, Linde does not teach wherein the user group is associated with at least one of the plurality of outlets associated with a particular organization name.

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23. It would have been obvious to one of ordinary skill in the art at the time the invention was made for a user group to be associated with an organizational name, since one of ordinary skill in the art would realize that maintaining information regarding the users outlets, organization, and parent would prevent the user from accessing unauthorized information (paragraph 0054 of Linde requires a username and password, a technique known to prevent access to unauthorized data) and help in formulating market research comparing their company to their competitors (paragraph 0022 of Linde).

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

25. The following patents are cited to further show the state of the art with respect to market analysis, such as:

United States Patent Application Publication No. 2003/0050525 A1 to Gallivan et al., which is cited to show analyzing and representing pharmaceutical sales performance.

United States Patent Application Publication No. 2002/0107719 A1 to Tsang et al., which is cited to show analyzing searchable business markets.

United States Patent No. 5,526,257 A to Lerner, which is cited to show a computerized method of tracking the market performance of a product.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (571) 272-3792. The examiner can normally be reached on Monday thru Thursday 7-5.

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27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

28. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christian LaForgia
Patent Examiner
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A handwritten signature in black ink, appearing to be 'CLF', with a long horizontal line extending to the right.

clf